

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BILLY RAY MALDONADO,  
Petitioner,

No. C 07-102 MHP (pr)

**ORDER**

v.

JAMES A. YATES, warden,  
Respondent.

A petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 was filed for Billy Ray Maldonado, currently incarcerated at the Pleasant Valley State Prison. The petition and verification were signed by attorney Richard Such, who represented Maldonado in his state court appeal but did not purport to represent Maldonado in this action. Noting the need for a proper petitioner, the court ordered: "No later than May 18, 2007, there must be filed and served (a) a copy of the petition actually signed by Maldonado or (b) an application by Richard Such to bring the petition as Maldonado's next friend. If neither is filed and served, the action will be dismissed." Order To Show Cause, p. 4. Inexplicably, neither was filed, so the case still has a proper petitioner problem. Attorney Such recently sent to the court a letter in which he didn't mention the proper petitioner problem but stated that he "intend[s] to assist Mr. Maldonado to file [an] opposition" to respondent's motion to dismiss, hopefully by October 5, 2007. Sept. 14, 2007 R. Such letter. Upon due consideration of the matter, the court now orders as follows:

1           1.       This action will be dismissed without further notice if, by **October 12, 2007**,  
2 there has not been filed (a) a copy of the petition actually signed by Maldonado or (b) an  
3 application by Richard Such to bring the petition as Maldonado's next friend.


4           2.       Attorney Such must send to petitioner a copy of the petition, the court's  
5 April 11, 2007 order to show cause, respondent's motion to dismiss and this order within **five**  
6 **days** of the date of this order. The court imposes this obligation on attorney Such – rather  
7 than doing the task itself – because Such never provided to the court a CDCR prisoner  
8 number to use to mail any documents to petitioner.

9           3.       Petitioner must file and serve his opposition to respondent's motion to dismiss  
10 no later than **October 12, 2007**.

11          4.       Respondent must file and serve his reply, if any, in support of his motion to  
12 dismiss no later than **October 26, 2007**.

13           IT IS SO ORDERED.

14          DATED: September 21, 2007

  
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Marilyn Hall Patel  
United States District Judge